

**Juvenile Case Decided by the
North Carolina Court of Appeals**
September 20, 2011
Neglect disposition

Custody and physical placement

- The court's approval of the mother's placement of the children with a relative, without awarding custody to the relative or DSS, was not an abuse of discretion.

In re D.L., __ N.C. App. __, __ S.E.2d __ (September 20, 2011).

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMS0yNTYtMS5wZGY=>

Facts: DSS filed a petition alleging neglect but did not seek nonsecure custody because the children were safe in a kinship care placement. The children's fathers were served but did not appear. The mother stipulated to the facts and the court entered a consent order adjudicating neglect. At disposition, the court rejected the guardian ad litem's request that custody be given to the relative or DSS, and instead "sanctioned" the continued placement of the children with the relative and ordered the mother to execute a power of attorney to authorize the relative to obtain medical, dental, and other services for the children. The guardian ad litem appealed.

Held: Affirmed.

1. The trial court's order was authorized by law and was not an abuse of discretion.
2. The court rejected the argument that the disposition was not authorized by the Juvenile Code, because custody was left with the mother, which is an authorized disposition.
3. The court distinguished *In re H.S.F.*, 177 N.C. App. 193 (2006), which reversed an order that gave joint legal custody to the parents, primary physical custody to the mother, and primary placement with the grandfather – holding that the statute does not allow the court to grant physical custody to a parent but order physical placement with someone else. Unlike *H.S.F.*, in this case the court did not order physical placement of the children with the relative, but merely approved the mother's decision about where the children should be placed.

*Appellate court opinions can be found at <http://www.aoc.state.nc.us/www/public/html/opinions.htm>
Earlier case summaries can be found at <http://www.sog.unc.edu/node/513>*



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